

Remarks:

Applicant has read and considered the Office Action dated August 9, 2004 and the reference cited therein. Claims 1-3 have been amended and are currently pending.

In the Action, claim 3 was objected to because of an informality. The term "an" has been replaced with "a" for grammatical clarity. Applicant asserts that the objection to claim 3 is traversed.

Claims 1-3 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Nishimura et al.* The Action states that the *Nishimura* patent shows the claimed invention except that *Nishimura* does not specify that the lack of transversely extending reinforcing embedded rods that provide a reduced transverse rigidity, thus allowing the body to curvingly flex when engaged with uneven ground. The Action also states that the track of *Nishimura et al.* is capable of doing so due to its lack of transversely imbedded reinforcing rods. The Action states that the profile 6 of the body 1 is formed of three levels of profile sections and includes a central section, a pair of opposite intermediate sections (namely the inclined portion), and a pair of opposed edge sections. The central section displays a hexagonal mass having a thickness greater than the thickness of the intermediate and edge sections of the profile 6.

Claim 1 now recites a track for a vehicle traveling on all terrain including ruts comprising an endless longitudinal body having an inner surface displaying a series of longitudinally spaced drive lugs and an outer surface displaying a series of longitudinally spaced transversal profiles extending transversely from one outer edge of said body to an opposite outer edge of said body. Claim 1 further recites that each said transversal profile is formed of a continuous coplanar mass of flexible rubber material, each continuous mass displaying a height decreasing in value from the center of the mass to said outer edges thereof, said body being formed of flexible rubber material and being free of conventional transversely extending reinforcing embedded rods thereby providing reduced transverse rigidity to the body and allowing said body and said transversal profiles to curvingly flex when engaged in ruts. Applicant asserts that the added

language is fully supported by the drawings and accompanying description, which show the transversal profile being formed of a continuous coplanar mass of flexible rubber material. No new matter has been added. Moreover, the transversal profile flexes, as shown in Figure 3, to curvingly flex and increase ground contact when engaged in ruts.

Applicant respectfully asserts that the profile of *Nishimura et al.* does not teach or suggest the longitudinally spaced transversal profiles recited in claim 1. As clearly shown in Figures 2A and 2B, the profiles are overlapping longitudinally as opposed to the configuration of the present invention. The present invention has a series of longitudinally spaced transversal profiles as shown in Figure 1. The *Nishimura et al.* profile does not have spaced apart transversal profiles and does not provide flexure and traction advantages of the present invention. Moreover, as shown in Figure 4 and in Figure 15, which were the only two Figures that Applicant believes includes the incline portion as asserted in the Office Action, it is clear that the transversal profile is not a continuous profile as there are breaks between the short lags 6 formed in the outer surface of the rubber elastomer 1. Moreover, such a profile is not a continuous coplanar mass of flexible rubber material displaying a height decreasing in value in the center of the mass to the outer edges thereof. Such a profile allows for flexing and adapts well to ruts, as shown in Figure 3, providing advantages over *Nishimura et al.*, which does not have a greater height at the center of the mass. Applicant asserts that none of the other prior art either alone or taken in combination with *Nishimura*, teaches or suggests the present invention. Applicant asserts that claim 1 patentably distinguishes over *Nishimura* for the reasons discussed above and advantages provided thereby.

Claims 2 and 3 provide further advantages. Claim 2 recites a central section, a pair of opposite intermediate sections and a pair of opposite edge sections. When read with claim 1, for the reasons stated above, it is clear that *Nishimura* does not include a transversal profile extending transversely from one outer edge of the body to an opposite outer edge and each profile being formed in a continuous coplanar mass of flexible rubber material. Moreover, Applicant asserts that *Nishimura* neither teaches nor suggests the structure recited in claim 3.

U.S. Patent Application Serial No. 10/669,228
Reply to Office Action dated August 9, 2004

Applicant fails to see where *Nishimura* teaches or suggests the central section displaying a hexagonal mass having a thickness greater than the thickness of said intermediate sections and said edge sections of said profile. The hexagonal shaped mass has a thickness greater than the thickness of the intermediate sections and the edge sections provides maximum traction in the central area of the track. This is neither taught nor suggested by *Nishimura et al.* or any other prior art. Such structure provides advantages for traction and drive, especially when the track is in a rut, which is neither shown nor suggested by the prior art or any combination thereof.

Applicant asserts that claims 2 and 3 patentably distinguish over the cited references.

A speedy and favorable action on the merits is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicant's representative at (612) 336-4728.

Respectfully submitted,

MERCHANT & GOULD P.C.

Dated: 11/9/04

By: 
Gregory A. Sebald
Reg. No. 33,280
GAS/km

23552
PATENT TRADEMARK OFFICE